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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,224

04/01/2004

David E. Richardson

100111157-1

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04/28/2009

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

JAIN, RAJ K

ART UNIT

PAPER NUMBER

2416

NOTIFICATION DATE

DELIVERY MODE

04/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/814,224	Applicant(s) RICHARDSON, DAVID E.	
	Examiner RAJ JAIN	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-16,18-23 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-16,18-23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

General Remarks

In light of Applicants remarks, Examiner respectfully withdraws objections to: specification and objections to claims 23, 25-30.

Claim Objections

Claims 16, 19 and 23 are objected to because of the following informalities:

Claim 16, replace "the" before "second" in line 12 to "a".

Claim 19, replace "them" in line 3 to "the".

Claim 23 insert "to be executed by a processor" in line 1 after "program".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the first VLAN and the second VLAN" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-9, 11-16, 18-23, and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher et al (USP 6085243) in view of Voit et al (USP 7,042,880 B1).

Regarding claim(s) 1, 9, 16 and 23, Fletcher discloses a method of managing traffic in a first set of nodes of a computer network (fig. 1, each dRMON serves a

number of nodes such as 52a, 52b etc.) having a first set of nodes (21a, 52b, 52c) and a second set of nodes (51a, 51b, 51c) comprising:

determining a source associated with an amount of network traffic over the first set of nodes (col 4 lines 11-52, col 6 lines 10-15; the dRMON monitors network traffic volume for each set of nodes), the source being outside a group of network elements assigned to the first set of nodes (Fig. 1, outside nodes consist of 52 d-g).

automatically displaying an indication of the source in response to determining the source(Figs. 1, 10 and 11, col 4 lines 11-15; col 6 lines 10-19; lines 62-67; col 16 lines 1-17, the display device 50a, displays source indication back to the server 64 as appropriate.).

Fletcher fails to disclose determining top talker sources over the first VLAN and the second VLAN and VLAN identifiers respectively where the top talkers are not the same as the VLAN being tested.

Voit discloses a first set of nodes and second set of nodes being a VLAN (Figs 1 & 3; col 18 lines 38-56). The virtual LAN (VLAN) standard allows for grouping nodes into Logical LAN groupings on a single fabric. In a VLAN environment, packets are assigned to a particular logical LAN and the packet is constrained to stay within that logical LAN. This ensures that unicast packets cannot be received outside of a particular grouping. Broadcast and multicast packets from a given node with a virtual LAN are similarly constrained to remain within the virtual LAN. The traffic containment that VLAN's provide, along with the controlled distribution of multicast packets, can permit a greater number of end nodes to be supported on a fabric. Voit further discloses top talkers as congestion based nodes that exceed the thresholds of specific nodes (See Figs. 7a & 7b) and testing of VLAN that are not the same VLAN as the top talker sources or the congested sources (col 20 lines 1-17; col 28 lines 62- col 29 lines 29; col 32 lines 1-53).

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Voit within Fletcher so as to contain traffic within a specific group and allow for network flexibility of future growth by adding additional communication and/or multimedia services as needed.

Regarding claim(s) 3, 11, 18 and 25, Fletcher discloses a user name associated with the source (Fig. 4, each user/source has a specific dRMON agent and therefore a user name associated for the specific source)

Regarding claim(s) 4, 12, 19, and 26, Voit discloses reassigning the source to the first VLAN in response to determining the source either manually or automatic (col 24 lines 11-20; 40-48; col 25 lines 30-35). Reasons for combining same as for base claims.

Regarding claim(s) 5 and 27, Voit discloses automatic reassignment (col 24 lines 11-20; 40-48; col 25 lines 30-35). Reasons for combining same as for base claims.

Regarding claim(s) 6, 13, 20, and 28, Fletcher discloses traffic data is obtained using a network management protocol (col 4 line 65 – col 5 line 10, the RMON2 provides layer 2-7 network management protocol capabilities).

Regarding claim(s) Claims 7, 14, 21 and 29 Fletcher discloses using an RMON protocol (col 4 lines 31-67). RMON provides autonomous Network Management, and automatically tracks network traffic volume and errors for each MAC address seen on a segment and maintains a Host Matrix table of MAC address pairs that have exchanged packets and the traffic volume and errors associated with those address pairs.

Regarding claim(s) 8, 15, 22, and 30, Fletcher discloses determination of the source (Fig. 1, the dRMON Collector collects traffic data info. for each set of nodes). Fletcher fails to disclose a VLAN and/or top sources or congestion based sourcing, Voit discloses a VLAN network (Figs 1 & 3; col 18 lines 38-56) and congestion status of each source (col 20 lines 1-17; col 28 lines 62- col 29 lines 29; col 32 lines 1-53). Reasons for combining same as for base claims.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-9, 11-16, 18-23 and 25-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raj K. Jain/

Examiner, Art Unit 2416